

Attorney Docket No.: DEX-0087
Inventors: Recipon et al.
Serial No.: 09/705,500
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assaying for Lng108, and methods of identifying potential agents useful in the imaging of cancer comprising assaying for the ability of a molecule to bind to Lng108, classified in Class 436, subclasses 64, 501, 813 and 815;

Group II, claims 9-11, 6 in part and 12 in part, drawn to methods of treating cancer comprising administering an antibody which binds Lng108 or a molecule which downregulates expression or activity of Lng108 and methods of identifying potential agents for use in treating cancer which decreases the expression or activity of Lng108, classified, for example in class 514, subclass 44 and class 530, subclass 387.7 and class 435, subclasses 6 and 7.23; and

Group III, claims 13 and 14, drawn to a method for inducing an immune response comprising the delivery of an immunogenically stimulatory amount of Lng108 and a vaccine for treating cancer comprising an immunogenically stimulating amount of Lng108, classified in class 424, subclass 277.1 and class 530, subclasses 350 and 828.

The Examiner suggests that the inventions of Groups I, II and III are distinct because they differ in the method objectives, method steps and parameters and in the reagents used. The Examiner also suggests that the invention of Groups I, II and III have acquired a separate status in the art as shown by their

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different classification and recognized divergent subject matter and that searches required for the groups are not co-extensive.

Applicants respectfully disagree.

MPEP 803 provides two criteria which must be met for a Restriction Requirement to be proper. The first is that the inventions be independent or distinct; the second is that an undue burden be placed on the Examiner without such restriction.

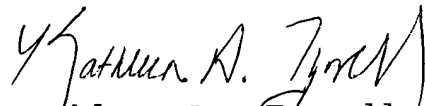
The pending claims are all drawn to methods involving determination of Lng108. Thus, a proper search of any of these groups would reveal all art relating to Lng108 including art relating to methods of Group I, II and III. Accordingly, inclusion of all claims in the examination of this case places no serious burden on the Examiner since all art identified relating to Lng108 already requires review.

Accordingly, since this Restriction Requirement fails to meet both criteria to be proper, withdrawal is respectfully requested.

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However, in an earnest effort to be completely responsive,
Applicants elect to prosecute Group I, claims 1-5, 7, 8, 6 in part
and 12 in part, with traverse.

Respectfully submitted,


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